

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

<b>KIMBERLY PAGE OWENS,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CIV-11-377-RAW</b>
	)	
<b>CAROLYN W. COLVIN,</b>	)	
<b>Acting Commissioner of Social Security</b>	)	
<b>Administration,<sup>1</sup></b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER**

On March 13, 2013, Magistrate Judge West entered a Report and Recommendation in the above-referenced case, recommending that this court affirm the Commissioner's decision upholding on appeal the findings of the Administrative Law Judge ("ALJ"), denying benefits to plaintiff. Plaintiff has timely filed an objection, which the court has considered.<sup>2</sup>

Plaintiff argues that the Report and Recommendation is contrary to *Daniels v. Apfel*, 225 F.Supp.2d 1234 (D.Colo.2002). This court notes that the *Daniels* decision was cited and found inapposite in *Fox v. Comm'r of Soc. Sec.*, 2009 WL 367628 (N.D.N.Y.2009) using essentially the line of logic employed by Magistrate Judge West in the Report and Recommendation under review.<sup>3</sup>

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<sup>1</sup>In accordance with Rule 25(d) F.R.Cv.P., Carolyn W. Colvin is substituted for Michael J. Astrue as the defendant in this action.

<sup>2</sup>It has been the court's experience that the government does not respond to such objections unless directed to do so by the court. The court is persuaded it can comfortably rule based on the present record.

<sup>3</sup>To the extent a split of district court authority exists, a higher court may one day resolve it.

The court is also persuaded that concluding the ALJ meant to say “surveillance system monitor” when he actually said “security system monitor” does not require an improper “post hoc assumption”.

Upon full consideration of the entire record and the issues herein, this court finds that the Magistrate Judge’s findings are supported by substantial evidence and the prevailing legal authority. Accordingly, the Report and Recommendation of the United States Magistrate Judge is hereby AFFIRMED and ADOPTED as this court’s Findings and Order. The decision of the Secretary is affirmed.

**ORDERED THIS 28th DAY OF MARCH, 2013.**

**Dated this 28<sup>th</sup> day of March, 2013.**

A handwritten signature in cursive script, reading "Ronald A. White", written in black ink over a horizontal line.

Ronald A. White  
United States District Judge  
Eastern District of Oklahoma